

**UNITED STATES DISTRICT COURT  
DISTRICT OF KANSAS**

UNITED STATES OF AMERICA,	)	
	)	Case No. 6:19-cv-1120
Plaintiff,	)	
	)	
v.	)	
	)	
DANIEL F. HURST,	)	
ABBY L. HURST, and	)	
JPMORGAN CHASE BANK, N.A.,	)	
	)	
Defendants.	)	
_____	)	

**COMPLAINT**

Plaintiff United States, for its complaint against defendants, alleges as follows:

1. This is a civil action in which the United States seeks to: (1) reduce to judgment certain federal income tax, interest and penalty assessments made against Daniel F. Hurst; (2) obtain a judgment enforcing its federal tax liens against certain real property which is located at 2910 East 43rd Avenue, Hutchinson, Kansas 67502 (the “Hutchinson Property”) and which is further described below; and (3) obtain an order directing the sale of the Hutchinson Property, and have the proceeds from the sale distributed in the manner set forth below.

2. This action is commenced at the request and with the authorization of a delegate of the Secretary of Treasury and at the direction of the Attorney General pursuant to 26 U.S.C. §§ 7401 and 7403.

**Jurisdiction and Venue**

3. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1340 and 1345, and 26 U.S.C. §§ 7402 and 7403.

4. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1396 because this is the district where defendants Daniel F. Hurst and Abby L. Hurst reside, where the liability accrued, and where the Hutchinson Property is located.

**Parties**

5. Plaintiff is the United States of America.

6. Defendant Daniel F. Hurst resides in the Hutchinson Property and is subject to the jurisdiction of the Court.

7. Defendant Abby L. Hurst resides in the Hutchinson Property. Abby L. Hurst is named as a defendant to Count II of this complaint pursuant to 26 U.S.C § 7403(b) because she may claim an interest in the Hutchinson Property.

8. Defendant JPMorgan Chase Bank, N.A., is a national bank that regularly conducts business in Kansas. It is named as a party to Count II of this complaint pursuant to the provisions of 26 U.S.C. § 7403(b) because it may claim an interest in the Hutchinson Property.

**COUNT I: Judgment Sought Against Daniel F. Hurst**

9. The United States incorporates the allegations set forth in paragraphs 1 through 8 above.

10. For tax years 2002-2004, Daniel F. Hurst filed federal income tax returns, but failed to report and pay all the tax he owed.

11. Accordingly, on the dates set forth below, a delegate of the Secretary of the Treasury made assessments against Daniel F. Hurst for federal income taxes, accrued interest, and penalties for tax years 2002-2004. The unpaid balances of these assessments, including accrued interest and statutory additions as well as credits and payments through May 8, 2019, are as follows:

<b>Tax Period</b>	<b>Date of Assessment</b>	<b>Assessed Tax</b>	<b>Assessed Penalties &amp; Interest</b>	<b>Unpaid Balance as of May 8, 2019</b>
2002	5/26/2009	\$54,737.00	\$53,440.26	\$205,959.30
	6/22/2009	\$8,802.00	\$3,960.90	
2003	6/22/2009	\$16,879.00	\$7,595.55	\$53,448.81
2004	6/22/2009	\$5,295.00	\$1,059.00	\$13,683.11
			<b>Total:</b>	<b>\$273,091.22</b>

12. The IRS gave notices of the assessments referred to in paragraph 11, and made demands for payment to Daniel F. Hurst on or about the dates of the assessments.

13. Notwithstanding the notices of the assessments and demands for payment, Daniel F. Hurst has failed to pay the assessed liabilities for tax years 2002-2004.

14. By reason of the foregoing, Daniel F. Hurst is liable to the United States in the total amount of \$273,091.22 regarding the assessments referred to in paragraph 11 above, plus such additional interest and other statutory additions that have accrued and will continue to accrue thereon from May 8, 2019.

WHEREFORE the United States respectfully requests this Court to enter judgment on Count I of its complaint as follows:

- A. That the Court enter judgment in favor of the United States and against Daniel F. Hurst for unpaid federal income tax liabilities for the years 2002-2004 in the total amount of \$273,091.22, plus such additional interest and other statutory additions that have accrued and will continue to accrue thereon from May 8, 2019; and
- B. That the Court grant the United States such other and further relief as it deems proper, including awarding the United States its costs and fees incurred herein.

#### **COUNT II: Lien Enforcement**

- 15. The United States incorporates paragraphs 1 through 14 above.

16. Daniel F. Hurst acquired ownership of the Hutchinson Property by corporation warranty deed in August 1996. (A true copy of the deed is attached hereto as Exh. 1.) The legal description of the Hutchinson Property is:

**A portion of the Southwest Quarter of Section 28, Township 22 South, Range 5 West of the 6th Principal Meridian, described as follows:**

**Commencing at the Southwest corner of the Southwest Quarter of Section 28, Township 22 South, Range 5 West of the 6th Principal Meridian; thence East along the South line of said Southwest Quarter 1566.18 feet for the point of beginning; thence with a deflection angle 89°50'25" left - North parallel with the West line of Sand Dunes Addition Replat, a subdivision in the Southwest Quarter of Section 28, Township 22 South, Range 5 West of the 6th Principal Meridian a distance of 428.26 feet; thence with a deflection angle 89°58'07" right - East 263.12 feet to the West line of said Sand Dunes Addition Replat; thence with a deflection angle 90°01'53" right - South along the West line of said Sand Dunes Addition Replat 427.67 feet to the South line of said Southwest Quarter; thence with a deflection angle 89°50'25" right - West along the South line of said Southwest Quarter 263.12 feet to the point of beginning, Reno County, Kansas.**

17. In September 2009, the Hutchinson Property was deeded to Daniel F. Hurst and Abby L. Hurst as "JOINT TENANTS and not tenants in common, with full rights of survivorship." (A true copy of the deed is attached hereto as Exh. 2.)

18. As a result of the assessments described in paragraph 11 above, as well as the notices of assessments, demands for payment, and subsequent failures to pay, federal tax liens arose, pursuant to 26 U.S.C. §§ 6321 and 6322, in favor of the United States on the date of each of the assessments and attached to all property and rights to property belonging to Daniel F. Hurst, including his interest in the Hutchinson Property, as a matter of law.

19. Pursuant to 26 U.S.C. § 6323(f), a delegate of the Secretary of the Treasury filed notices of the federal tax liens with the Register of Deeds in Reno County, Kansas, on or about April 18, 2011, and April 25, 2011, for tax years 2002-2004.

WHEREFORE, the United States respectfully requests this Court to enter judgment in its favor and against all other parties to this action on Count II of its complaint as follows:

- A. Declare that the federal tax liens are valid and subsisting liens that attached to all property and rights to property of Daniel F. Hurst as of the dates of the respective assessments made against him;
- B. Declare that the federal tax liens attached to the Hutchinson Property;
- C. Order that any defendant claiming an interest in the Hutchinson Property superior to the federal tax liens affirmatively demonstrate their interest;
- D. Order that the federal tax liens be enforced, that the Hutchinson Property be sold in a judicial sale according to the law, free and clear of any right, title, lien, claim, or interest of any other lien holders, and that the proceeds of the sale be distributed to the parties in such amounts as this Court determines; and
- E. That this Court award the United States such other relief as is just and equitable, including awarding the United States its costs.

Dated: May 10, 2019

Respectfully submitted,

RICHARD E. ZUCKERMAN  
Principal Deputy Assistant Attorney General

/s/ Jared S. Wiesner  
JARED S. WIESNER  
D.C. Bar No. 976856  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 7238  
Washington, D.C. 20044  
202-514-6058 (v)  
202-514-6770 (f)  
[jared.s.wiesner@usdoj.gov](mailto:jared.s.wiesner@usdoj.gov)

## CORPORATION WARRANTY DEED

151580

Westcreek Developers, Inc., a corporation duly organized, incorporated, and existing under and by virtue of the laws of the State of Kansas, and having its principal place of business at Hutchinson in the State of Kansas.

## CONVEYS AND WARRANTS TO

Daniel F. Hurst

all of the following described REAL ESTATE in the County of Reno and the State of Kansas, to-wit:

EXHIBIT "A" ATTACHED

Entered in Transfer Record in my  
Office the 27

Day of Aug 1996

County Clerk br

*Rebecca L. Whitley*

for the sum of \$10.00 and other valuable considerations.

EXCEPT AND SUBJECT TO: Easements and Restrictions of Record.

Dated Aug 23 1996

BY

*Stuart L. Schrader*  
Stuart L. Schrader, President

(Corp. Seal)

STATE OF KANSAS, RENO COUNTY, ss.

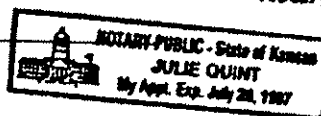
BE IT REMEMBERED, That on this 23 day of Aug A.D. 1996, before me the undersigned, a Notary Public in and for the County and State aforesaid came Stuart L. Schrader, President of Westcreek Developers, Inc., a corporation duly organized, incorporated and existing under and by virtue of the laws of Kansas, who is personally known to me to be such officer, and who is personally known to me to be the same person who executed, as such officer, the within instrument of writing on behalf of said corporation and such person duly acknowledged the execution of the same to be the act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my official seal the day and year last mentioned.

Notary Public

Term expires

(Seal)



STATE OF KANSAS } ss  
RENO COUNTY

This instrument was filed for record on the 27 day of Aug A.D. 1996 at 9:00 o'clock PM and duly recorded in Book 524 on Page 136 Fee \$ 8.00

*Mary W. Trach*  
REGISTER OF DEEDS

INDEXED  
ORIGINAL COMPARED  
WITH RECORD  
NUMERICAL

Government  
Exhibit

EXHIBIT "A"

15158C

A portion of the Southwest Quarter of Section 28, Township 22 South, Range 5 West of the 6th Principal Meridian, described as follows:

Commencing at the Southwest corner of the Southwest Quarter of Section 28, Township 22 South, Range 5 West of the 6th Principal Meridian; thence East along the South line of said Southwest Quarter 1566.18 feet for the point of beginning; thence with a deflection angle  $89^{\circ}50'25''$  left - North parallel with the West line of Sand Dunes Addition Replat, a subdivision in the Southwest Quarter of Section 28, Township 22 South, Range 5 West of the 6th Principal Meridian a distance of 428.26 feet; thence with a deflection angle  $89^{\circ}58'07''$  right - East 263.12 feet to the West line of said Sand Dunes Addition Replat; thence with a deflection angle  $90^{\circ}01'53''$  right - South along the West line of said Sand Dunes Addition Replat 427.67 feet to the South line of said Southwest Quarter; thence with a deflection angle  $89^{\circ}50'25''$  right - West along the South line of said Southwest Quarter 263.12 feet to the point of beginning, Reno County, Kansas.

*Shirley A. [Signature]**[Signature]*  
REGISTER OF DEEDS**JOINT TENANCY WARRANTY DEED****Government  
Exhibit**

2

Daniel F. Hurst and Abby L. Hurst, husband and wife

**CONVEYS AND WARRANTS TO:**

Daniel F. Hurst and Abby L. Hurst, husband and wife

as JOINT TENANTS and not as tenants in common, with full rights of survivorship, the whole estate to vest in the survivor in the event of the death of either, all of the following described REAL ESTATE in the County of Reno and State of Kansas, to wit:

**See Attached**

**Pursuant to K.S.A. 79-1437, a real estate validation questionnaire is not required due to Exception No.9**

EXCEPT AND SUBJECT TO: Easements and restrictions of record, if any.

Dated: 9/11/2009

*[Signature]*  
Daniel F. Hurst

*[Signature]*  
Abby L. Hurst

STATE OF KANSAS, COUNTY OF RENO SS:

BE IT REMEMBERED, that on this 11<sup>th</sup> day of SEPTEMBER, 2009, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Daniel F. Hurst and Abby L. Hurst, husband and wife, who is/are personally known to me to be the same person(s) who executed the above and foregoing instrument, and such person(s) duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my official seal the day and year last above mentioned.

My term expires:



*[Signature]*  
NOTARY PUBLIC  
Todd C. Brown  
PRINTED NAME



A portion of the Southwest  $\frac{1}{4}$  of Section 28; Township 22 South, Range 5 *West of the 6<sup>th</sup> P.M.*, Reno County, Kansas, described as follows: Commencing at 'the Southwest corner of the Southwest  $\frac{1}{4}$  of Section 28, Township 22 South, Range 5 West of the 6th P.M.; thence East along the South line of said Southwest  $\frac{1}{4}$ , 1566.18 of Section., 1566.18 feet for the point of beginning; thence with a deflection angle  $89^{\circ}50'25''$  left - North parallel with the West line of said Sand Dunes Addition Replat, a subdivision in the Southwest  $\frac{1}{4}$  of Section 28, Township 22 South, Range 5 West of the 6th P.M., Reno County, Kansas, a distance of 428.26 feet, thence with a deflection angle  $89^{\circ}58'07''$  right - East 263.12 feet to the West line of said Sand Dunes Addition Replat; thence with a deflection angle  $90^{\circ}01'53''$  right - South along the West line of said Sand Dunes Addition Replat 427.67 feet to the South line of said Southwest  $\frac{1}{4}$ ; thence with a deflection angle  $89^{\circ}50'25''$  right - West along the South line of said Southwest  $\frac{1}{4}$ , 263.12 feet to the point of beginning.

According to the Reno County tax Rolls, the above land is commonly known as:  
2910 East 43<sup>RD</sup> Avenue, Hutchinson, Kansas 67502

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

United States of America

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Jared S. Wiesner  
Trial Attorney, U.S. Department of Justice, Tax Division  
P.O. Box 7238; Washington, DC. 20044

**DEFENDANTS**

Daniel F. Hurst, Abby L. Hurst, and JPMorgan Chase Bank, N.A.

County of Residence of First Listed Defendant Reno  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<b>FEDERAL TAX SUITS</b> <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
26 U.S.C. §§ 7402 and 7403

Brief description of cause:

This suit seeks to reduce to judgment tax assessments, obtain judgment enforcing tax liens, and obtain sale order.

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

05/10/2019

SIGNATURE OF ATTORNEY OF RECORD

/s/ Jared S. Wiesner

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_

AMOUNT \_\_\_\_\_

APPLYING IFP \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_